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REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated May 10, 2006. By this Response and Amendment, claims 1, 7, 12, 14-17, 27, 28 and 30 have been amended. Claims 10, 11, 21, 22, 25 and 26 are cancelled without prejudice to, or disclaimer of, the subject matter recited therein. Claims 1, 2, 4-7, 9, 12-17, 16, 17, 23, 24, 27, 28 and 30 are pending in the application and are presented for reconsideration and further examination in view of the foregoing amendments and the following remarks and arguments.

Rejections under 35 U.S.C. § 102

In section 3, on pages 2-6, the Office Action rejects claims 1, 2, 4-7, 9, 11, 15-17, 21, 22, 25-28 and 30 under 35 U.S.C. § 102(b) as allegedly being anticipated by Hamalainen et al. (U.S. Pat. No. 6,477,176) (hereinafter "Hamalainen"). Applicant respectfully traverses these rejections.

Claim 1

Claim 1 recites, *inter alia*, a telecommunication system comprising a first and a second communication station, wherein "the first station further comprises a controller for generating an output data stream comprising the real-time data, the controller also <u>allocating</u> non-real-time packet data to the output data stream when the data rate of the real-time data is less than the full data capacity of the dual mode channel, which <u>output data stream is transmitted</u> by the transceiver over the channel" (emphasis added).

- 11 -

Claim 1, further recites "wherein at least part of the output stream comprises both real time data and non-real-time packet data, and wherein the part of the output stream is a single time slot" (emphasis added).

In contradistinction, even if the term "a single time slot" is given the broadest interpretation in relation to "a frame defining a single transmission", a context ubiquitously disclosed in Hamalainen, Hamalainen still only discloses, teaches, or suggests transmission schemes under which data transmitted in a single time slot is either all speech data, or all packet data, but can never be a combination of the two types. In fact, this inherent limitation has been conceded. See ln. 1-2 on page 10 of the Office Action dated August 23, 2005.

Specifically, transmission schemes taught in Hamalanein are more of frame allocation schemes than the data allocation scheme recited in claim 1. These schemes only teach what type of frame should be allocated for a single transmission as a part of a series of transmissions. To illustrate, one of the embodiments that Hamalainen discloses requires that "speech frames" are first sent in succession until silence is detected by voice activity detector (VAD) 4. Then a few "noise frames" are sent. This sequence is followed by a silence description (SID) frame. Next, if there is packet data available in a temporary buffer, "data frames" are transmitted until VAD 4 informs of a new speech burst. See col. 3, ln. 46-67. The rest of the embodiments employ similar schemes, with difference only being the respective channels selected. See col. 5, ln. 47-59 and col. 5, ln. 60-66.

Hamalanein further teaches that a "speech frame" is a frame defining a single transmission that contains only speech data. See col. 3, ln. 29-34. Likewise, "data frame" is a frame defining a

- 12 -

single transmission that contains only packet data. See col. 3, ln. 63-67. Such connotative phrases

show that Hamalainen only discloses, teaches, or suggests that a frame defining a single transmission

must contain data of one uniform type. Reconfirming this teaching, Hamalainen summarizes, in its

own words, that "the preferred implementation of the generally applicable form of the invention is

sending speech and data in separate frames" (emphasis added). This uniformity in data type is a

direct consequence of Hamalainen's lack of a data allocation scheme similar to the one that claim 1

recites. While Hamalainen's schemes only allocate frames containing one uniform type of data on

transmission boundaries, the data allocation scheme recited in claim 1 allocates different types of

data on an output data stream without any regard to transmission boundaries.

Because Hamalainen does not disclose, teach, or suggest that a frame defining a single

transmission may comprise both real-time data and non-real-time data, Hamalainen similarly does

not disclose, teach, or suggest "wherein at least part of the output stream comprises both real time

data and non-real-time packet data, wherein the part of the output stream is a single time slot"

(emphasis added), as recited in claim 1. To one having ordinary skill in the art, the term "a single

time slot" is used as the smallest time unit in the context of transmitting a data stream within a

transmission time frame. See page 5, ln. 5-10 of the Application. Hence, even given the broadest

interpretation possible, "a single time slot" is at the most "a frame defining a single transmission." In

fact, such construction was readily adopted in one of the recent Office Actions. See bottom of page 9

of the Office Action dated August 23, 2005.

- 13 -

Consequently, Hamalainen does not fails to disclose, teach, or suggest "wherein at least part of the output stream <u>comprises both real time data and non-real-time packet data</u>, wherein the part of the output stream is a <u>single time slot</u>" (emphasis added), as recited in claim 1.

In support of the rejection under Hamalainen, the Office Action cited numerous sections to allege that real-time data (speech data) and non-real-time data (packet data) are allocated <u>in a single time slot</u> based on the availability of the packet data in data buffers. See pages 2-4 and 9 of the Office Action. Specifically, the Office Action points out different header identifiers used by different frames, as indicative of the presence of allocation schemes equivalent to the one that claim 1 recites. See pages 2-4 and 9 of the Office Action. Nonetheless, all of the cited sections, including col. 4, ln. 25-38 and col. 3, ln. 29-67, are merely detailing the <u>frame allocation schemes with respect to each single transmission</u> discussed above. Thus, the definition that the Office Action gives for the term "a single time slot" is not only inconsistent with both the definition of the phrase given in the specification but also unsupported in the disclosure, teaching and suggestions of the references applied in rejecting the claims. Likewise, the header identifiers that each frame has are merely used for an end receiver to identify <u>the single type of data that a particular frame carries in a single transmission</u>. See col. 4, ln. 22-37. Such technique has no bearing on whether different types of data are being allocated to a single time slot, a subject matter recited in claim 1.

It is therefore respectfully submitted that Hamalainen does not disclose, teach, or suggest "wherein at least part of the output stream <u>comprises both real time data and non-real-time packet data</u>, and wherein the part of the output stream is a <u>single time slot</u>" (emphasis added), as recited in

- 14 -

claim 1, and the Office Action therefore has failed to establish a prima facie case of anticipation with respect to the subject matter recited in claim 1. Accordingly, reconsideration and withdrawal of the rejections of claim 1 are respectfully requested.

Claims 7, 16, 17, 28, and 30

Independent claims 7, 16, 17, 28 and 30, recite the subject matter akin to the subject matter of claim 1 discussed above. Specifically, they all contain the subject matter of a single time slot comprising both real-time data and non-real-time packet data. Hence, for at least the same reasons given for claim 1, it is respectfully submitted the combinations recited in claims 7, 16, 17, 28 and 30 are allowable over Hamalainen. Accordingly, reconsideration and withdrawal of the rejections of claims 7, 16, 17, 28 and 30 are respectfully requested.

Claims 15 and 27

Independent claims 15 and 27, as amended, recite the subject matter akin to the subject matter of claim 1 discussed above, except in the context of receiving a data stream. Specifically, they all contain the subject matter of receiving a data stream comprising both real-time data and non-real-time packet data from a single time slot. Hence, for reasons essentially the same as those previously given with respect to claims 1, 7, 16, 17, 28 and 30, it is respectfully submitted the combinations recited in claims 15 and 27 are allowable over Hamalainen. Accordingly, reconsideration and withdrawal of the rejections of claims 15 and 27 are respectfully requested.

Claims 2-6, 9-11, 21, 24-25

Claims 2-6, 9-11, 21, 24, and 25 are dependent from the allowable claims 1, 7, 15, 16, 17, 27, 28 and 30, respectively. Accordingly, it is submitted that claims 2-6, 9-11, 21, 24, and 25 are patently distinguishable over Hamalainen. Accordingly, reconsideration and withdrawal of the rejections of claims 2-6, 9-11, 21, 24, and 25 are respectfully requested.

Rejections under 35 U.S.C. § 103

In section 5, on pages 7, the Office Action rejects claims 12 and 13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamalainen. In section 6, on page 7-8, the Office Action rejects claim 14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamalainen in view of Gudmundson (U.S. Patent No. 5,341,397). In section 7, on page 8, the Office Action rejects claims 23 and 24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamalainen in view of Feldman (U.S. Patent No. 6,393,000). These rejections are respectfully traversed

The Office Action rejects independent claim 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamalainen. Claim 12 recites subject matter akin to the subject matter of claim 1 discussed above, except that instead of two different types of data, a single time slot now <u>comprises three different types of data</u>. As stated above, Hamalainen does not disclose, teach, or suggest a single time slot comprising two different types of data. Rather, Hamalainen only discloses, teaches, or suggests <u>that a frame defining a single transmission</u> contains only one type of data. Hence, the Office Action's assertion that it would be obvious to one having ordinary skill in the art to transmit three different types of data from a computer is incorrect because such an assertion does not

- 16 -

overcome the deficiencies in Hamalainen described above. For at least the foregoing reasons, it is respectfully submitted that independent claim 12 is not obvious over Hamalainen. Accordingly, reconsideration and withdrawal of the rejection of claim 12 under 35 U.S.C. § 103 (a) is respectfully requested.

The Office Action rejects independent claim 14 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamalainen in view of Gudmundson. Claim 14 also recites subject matter akin to the subject matter of claim 1 discussed above, except in the context of code division multiple access (CDMA). Specifically, it contains the subject matter of a frame defining a single transmission comprising both real-time data and non-real-time packet data. As stated above, Hamalainen does not disclose, teach, or suggest a frame defining a single transmission comprising two different types of data. Rather, Hamalainen only discloses, teaches, or suggests that a frame defining a single transmission contains only one type of data. Gudmundson fails to overcome the deficiencies in Hamalainen described above because Gudmundson only teaches a frequency allocation scheme based on transmission power levels within the framework of CDMA. See abstract. For at least the foregoing reasons, it is respectfully submitted that independent claim 14 is not obvious over Hamalainen in view of Gudmundson. Accordingly, reconsideration and withdrawal of the rejection of claim 14 under 35 U.S.C. § 103 (a) as being unpatentable over Hamalainen in view of Gudmundson is respectfully requested.

Dependent claims 23 and 24 are allowable based on their dependence from independent claims 1 and 15 for the reasons stated above in connection with the rejection of claim 1 and 15.

- 17 -

Accordingly, reconsideration and withdrawal of the rejection of claims 23 and 34 under 35 U.S.C. §

103(a) is respectfully requested.

CONCLUSION

In view of the foregoing, withdrawal of the rejections of record and allowance of this
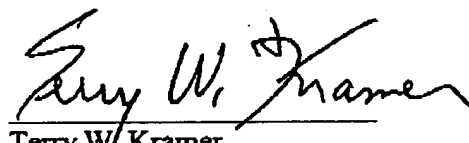
application are earnestly solicited.

While we believe that the instant amendment places the application in condition for

allowance, should the Examiner have any further comments or suggestions, it is respectfully

requested that the Examiner telephone the correspondence attorney listed below in order to

expeditiously resolve any outstanding issues.

- 18 -

Application No: 09/335,608
Attorney's Docket No: PHB-34-257

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Respectfully submitted,
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Date: September 6, 2006

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- 19 -